

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

US District Court for the Northern District of Texas

2016 JUL 21 PM 3:00

DEPUTY CLERK

) Craig Cunningham

) Plaintiff, pro se

)

) v.

CIVIL ACTION NO.

3-16CV-2120G

)

) Carlos Felix, Adam Albritton, Thomas Moore, Bobby Nichols, Thomas Moore, Kevin
Grey, Michael Bradberry, and Steven McCraw

)

) Defendants.

Plaintiff's Original Complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Carlos Felix is an employee of the Texas Department of Public Safety and state trooper. He can be served at Department of Public Safety, 1720 E. Main Street, Waxahachie, Tx 75165.
3. Adam Albritton is an employee of the Texas Department of Public Safety and state trooper. He can be served at 3030 US-287, Corsicana, Texas 75109.

4. Bobby Nichols is a supervisor and employee with the Texas Department of Public Safety and state trooper. He can be served at 3030 US -287 Corsicana, Tx 75109.
5. Thomas Moore is a sergeant and supervisor employee with the Texas Department of Public safety and can be served at 3030 US-287, Corsicana, Texas 75109.
6. Kevin Grey is a supervisor with the Texas Department of Public Safety and can be served at 350 W. IH 30 Garland, Texas 75043.
7. Michael Bradberry is a supervisor and employee of the Texas Department of Public Safety and can be served at 350 W. IH-30 Garland, Texas 75043.
8. Steven McCraw is the director of the Texas Department of Public Safety and can be served at 5805 N. Lamar Blvd., Box 4087, Austin, Tx 78773.

Jurisdiction

9. Jurisdiction and Venue of this court arises as the defendants reside here and the actions complained of took place here.

FACTUAL ALLEGATIONS

10. In January 2016, the Plaintiff was driving a vehicle which was in proper working condition and was otherwise following all traffic laws and regulations.
11. The Plaintiff passed a DPS car which was traveling in the right lane of a 2 lane road on the left, signaled a lane change to the right, and then made a lane change from the left lane to the right.

12. Shortly thereafter, the Plaintiff observed emergency lights flashing from the DPS vehicle indicating for the Plaintiff to pull over.
13. The Plaintiff pulled over to the right side of the road and was approached by Trooper Felix who then lied claiming that the Plaintiff failed to signal his lane change and then began attempting to interrogate and question the Plaintiff.
14. The Plaintiff asserted his right to remain silent, stated his non-consent to a search and requested a lawyer be present if any questioning was going to continue.
15. Trooper Felix then took the Plaintiff's license and ran a computer check on it, returned to the Plaintiff's vehicle and again attempted to question the Plaintiff now accompanied by Trooper Albritton who was the field training officer for Trooper Felix.
16. Trooper Felix then issued the Plaintiff a warning for failure to signal his lane change and returned the Plaintiff's license and permitted the Plaintiff to leave.
17. The Plaintiff then filed a formal complaint against Troopers Felix and Albritton for an improper detention and traffic stop with the Texas Department of Public Safety. The Plaintiff spoke with a Captain Nichols the supervisor of Trooper Felix who stated that after reviewing the video of the traffic stop, that the Plaintiff's tail light did signal the right lane change, twice and the traffic stop should not have occurred as there was a lack of probable cause to support a traffic infraction by the Plaintiff.

18. The Captain then began making excuses for why the officers failed to see the Plaintiff turn signal, otherwise known as keeping your eyes on the road, stating that there are many distractions in a patrol car or that the Defendant officers may have been looking at the vehicles to their rear or screwing with the radar gun, or doing something other than watching the road and vehicles ahead of them as they traveled at more than 60 miles per hour.
19. The Plaintiff recieved a letter dated May 13, 2016 in relation to the Plaintiff's complaint which states: *"Trooper Felix did not observe the brief signal intention that led to the reason for the traffic stop. The video clearly shows the brief signal given. Trooper Felix erred in stopping you for this violation. Trooper Felix's supervisor has addressed this problem."*¹
20. There was no disciplinary action take for the improper detention of the Plaintiff, even though the Defendants acknowledged that the traffic stop was improper and no traffic infratoin occured as alleged by Trooper Felix. Furthermore, no inquiry or investigation was conducted with regards to Trooper Albritton's actions or more appropriately inaction as a supervisory Field training officer, at all, despite Trooper Albritton being in charge of a rookie probationary officer and allowing Trooper Felix to make an improper traffic stop and failing to intervene to stop the illegal detention of the Plaintiff.
21. Trooper Felix violated the Plaintiff's 4th, 5th, and 14th Amendment rights by illegally detaining the Plaintiff without probable cause and then by extending the

¹See Exhibit A.

traffic stop by attempting to question the Plaintiff. Additionally, the questioning violated the Plaintiff's right to remain silent and right to have a lawyer present as the Plaintiff exercised these rights and they were ignored by Trooper Felix.

22. Trooper Albritton violated the Plaintiff's 4th, 5th, and 14th Amendment rights by illegally detaining the Plaintiff, failing to intervene and stop the Plaintiff's illegal detention, failing to intervene and permitting the Plaintiff to be illegally detained further by being questioned, and by failing to intervene to respect the Plaintiff's right to not be questioned without a lawyer present.

Supervisor Liability

23. Bobby Nichols, Steven McCraw, Kevin Gray, and Michael Bradberry as supervisors are also liable as supervisors for the violations of the Plaintiff's rights in this encounter as they each set in motion by their failure to train, supervise, and discipline the two officers a series of acts that they knew or should have reasonably known would cause the subordinates to deprive the Plaintiff of his rights under the 4th, 5th, and 14th Amendments.
24. Each of the named supervisors above knew or should have known that these two officers were engaging in illegal traffic stops and that the conduct of Troopers Albritton and Felix would deprive the Plaintiff of his rights under the law.
25. Each of the named supervisors failed to adequately train, supervise, or control their subordinates which caused the subordinates Troopers Felix and Albritton to deprive the Plaintiff of his rights under the 4th, 5th, and 14th amendments.

26. Each of the named supervisors acquiesced to the illegal acts of Trooper Albritton and Felix in making illegal traffic stops without punishment or objection.

CAUSES OF ACTION:

COUNT I

Violations of the Plaintiff's 4th Amendment Rights

27. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

28. The foregoing actions by the Defendants constitute multiple violations of the Plaintiff's rights under the 4th amendment of the US Constitution.

CAUSES OF ACTION:

COUNT II

Violations of the Plaintiff's 5th Amendment Rights

29. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

30. The foregoing actions by the Defendants constitute multiple violations of the Plaintiff's rights under the 5th amendment of the US Constitution.

COUNT III

Violations of the Plaintiff's 14th Amendment Rights

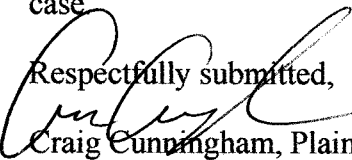
31. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
32. The foregoing actions by the Defendants constitute multiple violations of the Plaintiff's rights under the 14th amendment of the US Constitution.

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against each and every defendant for the following:
- B. Actual damages of \$100,000
- C. Pre-judgment interest from the date of the phone calls.
- D. Attorney's fees for bringing this action as incurred; and
- E. Costs of bringing this action; and
- F. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case

Respectfully submitted,


Craig Cunningham, Plaintiff, Pro-se, July 14th, 2016

Mailing address:

5543 Edmondson Pike, ste 248 Nashville, TN 37211

Nashville, Tn 37211

615-348-1977

Exhibit A

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
DAVID G. BAKER
ROBERT J. BODISCH, SR.
DEPUTY DIRECTORS



COMMISSION
A. CYNTHIA LEON, CHAIR
MANNY FLORES
FAITH JOHNSON
STEVEN P. MACH
RANDY WATSON

May 13, 2016

Craig Cunningham
5543 Edmondson Pike, ste 248
Nashville, TN 37211

RE: Complaint Against Trooper Carlos Felix

Your complaint against Trooper Carlos Felix has been investigated. A video recording of the traffic stop was reviewed and Trooper Felix was interviewed in reference to your concerns.

Trooper Felix did not observe the brief signal intention that lead to the reason for the traffic stop. The video clearly shows the brief signal given. Trooper Felix erred in stopping you for this violation. Trooper Felix's supervisor has addressed this problem. No other law or policy violation occurred.

Thank you for bringing this matter to our attention.

A handwritten signature in black ink, appearing to read 'Bob Nichols'.

Bob Nichols, Captain
Service Commander THP/HP 1A
350 W. IH 30
Garland, Texas 75043

cc: Michael Bradberry, Major
file

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Craig Cunningham

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

5543 Edmondson Pike, ste 248
Nashville, TN 37211**DEFENDANTS**

Carlos Felix

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, LIST THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

None

RECEIVED

JUL 21 2016

CLERK U.S. DISTRICT COURT
THE TRACT OF LAND INVOLVED**3-16 CV-2120 G****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

Brief description of cause:

42 USC 1983, civil rights police misconduct

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
10,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER



DATE
07/14/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

5543 Edmondson Pike
Ste 248
Nashville, TN 37211

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Dallas, TX 75242

